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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,637	04/25/2000	Thomas E. Tamburrini		9258

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EXAMINER

DO, ANH HONG

ART UNIT PAPER NUMBER

2624

DATE MAILED: 03/22/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,637

Applicant(s)

TAMBURRINI ET AL.

Examiner

ANH H DO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9,10 and 13-38 is/are allowed.
- 6) ☒ Claim(s) 1-8,11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (U.S. Patent No. 6,084,524) in view of Kurimoto (EP No. 0323848).

Regarding claim 1, Sato discloses:

- detecting an amount of light from the light source that has been reflected by the object (col. 16, lines 35-37);
- determining whether an object is present or absent by comparing the amount of light detected in the detection to an amount of light expected when an object is present (col. 16, lines 41-44).

One skilled in the art would have clearly recognized the light emission section 1 (Fig. 1) in Sato would implicitly illuminate the object to detect the presence or absence of an object (col. 1, lines 11-15). Sato does not specifically teach illuminating the object

located in front of a window with light from a light source and initiating a data reader control function in response to a determination made in the determining step.

Kurimoto teaches:

- illuminating an object located in front of a window with light from a light source (Fig. 3: light source 10 for illuminating label 9 of article 8 located in front of window 4);
- initiating a data reader control function in response to a determination made in the determining step (Fig. 3: light source control circuit 50 and col. 4, lines 24-31 teaches initiating a data reader control function of barcode reading circuit 40B in response to a determination made in the determining step), wherein the light source control circuit detecting whether the article is present to thereby inhibit or allow the activation of the main light source (col. 2, lines 19-22).

Therefore, it would have been obvious to have illuminated an object located in front of a window with the light and initiating a data reader control function in response to a determination made in the determining step in Sato as taught by Kurimoto in order to enable the detection of the presence of an object.

Regarding claims 2 and 3, Kurimoto teaches determining that an object is absent or present from in front of the window (col. 3, line 64 - col. 4, line 2).

Regarding claims 4 and 7, Kurimoto teaches determining that the object is present in front of the window only when the object is present in a vicinity of the window (col. 4, lines 45-53).

Regarding claim 11, the discussion of claim 1 applies hereto since Sato discloses

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detecting surface state (i.e., the presence or absence of the window) (col. 2, lines 1-6).

Regarding claim 12, Kurimoto teaches a laser (col. 3, lines 35-37).

3. Claims 5, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (U.S. Patent No. 6,084,524) in view of Kurimoto (EP No. 0323848) as applied to claims 1-4, 7, 11, and 12 above, and further in view of Pantus (U.S. Patent No. 5,831,529).

Although teaching as in the above claims, neither Sato nor Kurimoto teach a volume control/ wake-up function. One skilled in the art would have clearly recognized that the reader of Sato and Kurimoto is to detect the presence of an object.

Pantus, in the same field of endeavor, teaches a volume control/ wake-up function (col. 4, lines 25-28, teaches an alarm), wherein the light rays strike and reflect back by an object located near the surface of the window to enable detection of the presence of the object (col. 1, lines 64-67).

Therefore, it would have been obvious to have a volume control/ wake function in Sato and Kurimoto as taught by Pantus in order to enable the detection of presence of the object.

Allowable Subject Matter

4. Claims 9, 10, and 13-38 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 9, the prior art, either taken singly or in combination, does not

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teach:

- wherein, in the determining step, a first determination is made when the object is present in an immediate vicinity of the window, and a second determination is made when the object is present in a general vicinity of the window, and wherein, in the initiating step, a first data reader control function is initiated when the first determination is made in the determining step, and a second data reader control function is initiated when the second determination is made in the determining step.

Regarding claim 10, since this claim depends upon claim 9, it is also allowable for the same reason.

Regarding independent claim 13, the prior art, either taken singly or in combination, does not teach:

- an optical reader having a second light detector, the second light detector positioned behind the window and aimed to detect light arriving from objects located in front of the window, wherein the optical reader is controlled by an assertion of the first output.

Regarding claims 14-38, since these claims depend upon claim 13, they are also allowable for the same reason.

Contact Information

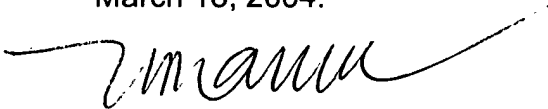
Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH H DO whose telephone number is 703-308-6720. The examiner can normally be reached on 5/4-9.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID K MOORE can be reached on 703-308-7452. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-308-5397 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

March 18, 2004.



ANH HONG DO
PRIMARY EXAMINER